

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

LANNA WEST
Claimant

APPEAL NO. 10A-UI-08006-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HCM INC
Employer

**Original Claim: 04/25/10
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's May 24, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. A telephone hearing was held on July 20, 2010. The claimant participated in the hearing. The employer responded to the hearing notice, but was not available for the hearing. The employer did not respond to the message left on the employer's answering machine. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on November 12, 2009. The employer hired the claimant to work as a full-time third-shift charge nurse. The director of nursing supervised the claimant.

In December 2009, the claimant received a written warning for failing to document a neurological assessment. That particular evening was extremely busy and the claimant acknowledged she forgot to record a neurological assessment.

Prior to April 27, 2010, the claimant had no idea her job was in jeopardy. During the last week of her employment, the claimant failed to document assessments she had made on a very ill resident. The state auditors discovered the lack of documentation for this resident. On April 27, the employer discharged the claimant because she had again failed to record a resident's assessment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The evidence indicates the employer discharged the claimant for justifiable business reasons. The evidence does not, however, establish that the claimant intentionally failed to perform her job satisfactorily when she did not document some assessments. The claimant may have been negligent or careless when she did not record some assessments, but the facts do not establish that she was careless or negligent to the extent that she committed work-connected misconduct. As of April 25, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's May 24, 2010 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of April 25, 2010, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw